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Attorneys for Defendant
NATERA, INC.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA,
SAN FRANCISCO DIVISION

GUARDANT HEALTH, INC.,

Plaintiff and Counterclaim
Defendant,

vs.

NATERA, INC.,

Defendant and Counterclaim-
Plaintiff.

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CASE NO. 3:21-CV-04062-EMC

**DECLARATION OF ELLE X. WANG IN
SUPPORT OF NATERA, INC.'S
MOTIONS *IN LIMINE***

Pretrial Conference:

Date: June 28, 2023
Time: 3:00 pm
Ctrm: 5 – 17th Floor
Judge: Hon. Edward M. Chen

Trial:

Date: July 24, 2023

1 I, Elle X. Wang, declare:

2 1. I am an attorney licensed to practice in the State of California. I am an attorney with
3 the law firm of Quinn Emanuel Urquhart & Sullivan LLP, counsel for Natera, Inc. (“Natera”) in the
4 above-captioned matter. I submit this declaration in support of Natera’s Motions *in Limine*. I have
5 personal knowledge of the matters set forth in this Declaration. If called upon as a witness, I could
6 competently testify to the truth of each statement herein.
7

8 2. Attached hereto as Exhibit 1 is a true and correct copy of excerpts of the transcript
9 from the July 26, 2022 deposition of Steve Chapman.

10 3. Attached hereto as Exhibit 2 is a true and correct copy of excerpts of the transcript
11 from the July 26, 2022 deposition of Helmy Eltoukhy, Ph.D.

12 4. Attached hereto as Exhibit 3 is a true and correct copy of excerpts of the transcript
13 from the September 21, 2022 deposition of Daniel F. Heitjan, Ph.D.
14

15 5. Attached hereto as Exhibit 4 is a true and correct copy of excerpts of the transcript
16 from the September 23, 2022 deposition of James E. Malackowski.

17 6. Attached hereto as Exhibit 5 is a true and correct copy of excerpts of the transcript
18 from the July 22, 2022 deposition of Mark McCoy.

19 7. Attached hereto as Exhibit 6 is a true and correct copy of excerpts of the transcript
20 from the July 13, 2022 deposition of Solomon Moshkevich.
21

22 8. Attached hereto as Exhibit 7 is a true and correct copy of excerpts of the transcript
23 from the August 17, 2022 deposition of AmirAli Talasaz, Ph.D.

24 9. Attached hereto as Exhibit 8 is a true and correct copy of a document produced in this
25 case as GHI00013035.

26 10. Attached hereto as Exhibit 9 is a true and correct copy of a document produced in this
27 case as GHI00014465.
28

1 11. Attached hereto as Exhibit 10 is a true and correct copy of a document produced in this
2 case as GHI00014505.

3 12. Attached hereto as Exhibit 11 is a true and correct copy of a document produced in this
4 case as GHI00036362.

5 13. Attached hereto as Exhibit 12 is a true and correct copy of a document produced in this
6 case as GHI00045942.

7 14. Attached hereto as Exhibit 13 is a true and correct copy of a document produced in this
8 case as GHI00053112.

9 15. Attached hereto as Exhibit 14 is a true and correct copy of a document produced in this
10 case as GHI00063255.

11 16. Attached hereto as Exhibit 15 is a true and correct copy of a document produced in this
12 case as NATERA_006902.

13 17. Attached hereto as Exhibit 16 is a true and correct copy of J. Thomas McCarthy, 5
14 MCCARTHY ON TRADEMARKS AND UNFAIR COMPETITION § 27:54.50, obtained from Westlaw.

15 18. Attached hereto as Exhibit 17 is a true and correct copy of excerpts of the transcript
16 from the August 16, 2022 deposition of Nitin Sood.

17 19. Attached hereto as Exhibit 18 is a true and correct copy of an article entitled “When
18 They Warn of Rare Disorders, These Prenatal Tests are Usually Wrong,” dated January 1, 2022,
19 obtained from <https://www.nytimes.com/2022/01/01/upshot/pregnancy-birth-genetic-testing.html>.

20 20. Attached hereto as Exhibit 19 is a true and correct copy of Rose et al., *Systematic*
21 *Evidence-based Review: The Application of Noninvasive Prenatal Screening Using Cell-free DNA in*
22 *General-risk Pregnancies*, 24 GENETICS IN MEDICINE 1379 (2022).

23 21. Attached hereto as Exhibit 20 is a true and correct copy of Dungan et al., *Noninvasive*
24 *Prenatal Screening (NIPS) for Fetal Chromosome Abnormalities in a General-risk Population: An*
25

1 *Evidence-based Clinical Guideline of the American College of Medical Genetics and Genomics*
2 (ACMG), 25 GENETICS IN MEDICINE 100336 (2023).

3 22. Attached hereto as Exhibit 21a is a true and correct copy of Dar et al., *Cell-free DNA*
4 *Screening for Prenatal Detection of 22q11.2 Deletion Syndrome*, 227 AM. J. OBSTETRICS &
5 GYNECOLOGY 79.e1 (2022).

6 23. Attached hereto as Exhibit 21b is a true and correct copy of Dar et al., *Cell-free DNA*
7 *Screening for Prenatal Detection of 22q11.2 Deletion Syndrome*, 227 AM. J. OBSTETRICS &
8 GYNECOLOGY 79.e1 (2022), obtained from [https://www.ajog.org/article/S0002-9378\(22\)00006-](https://www.ajog.org/article/S0002-9378(22)00006-0/fulltext)
9 [0/fulltext](https://www.ajog.org/article/S0002-9378(22)00006-0/fulltext).

10 24. Attached hereto as Exhibit 22 is a true and correct copy of an article entitled “Natera:
11 Pioneers in Deceptive Medical Billing,” dated March 9, 2022, obtained from
12 <https://hindenburesearch.com/natera/>.

13 25. Attached hereto as Exhibit 23 is a true and correct copy of a document produced in this
14 case as NATERA_350935.

15 26. Attached hereto as Exhibit 24 is a true and correct copy of Henriksen et al., *Circulating*
16 *Tumor DNA in Stage III Colorectal Cancer, beyond Minimal Residual Disease Detection, toward*
17 *Assessment of Adjuvant Therapy Efficacy and Clinical Behavior of Recurrence*, 28 CLINICAL CANCER
18 RESEARCH 507 (2022).

19 27. Attached hereto as Exhibit 25 is a true and correct copy of Henriksen et al., *Comparing*
20 *Single-target and Multitarget Approaches for Postoperative Circulating Tumor DNA Detection in*
21 *Stage II-III Colorectal Cancer Patients*, 16 MOLECULAR ONCOLOGY 3654 (2022).

22 28. Attached hereto as Exhibit 26 is a true and correct copy of Fakhri et al., *Evaluation of*
23 *Comparative Surveillance Strategies of Circulating Tumor DNA, Imaging, and Carcinoembryonic*
24 *Antigen Levels in Patients With Resected Colorectal Cancer*, 5 JAMA NETWORK OPEN (2022).

1 29. Attached hereto as Exhibit 27 is a true and correct copy of Reinert et al., *Analysis of*
2 *Plasma Cell-Free DNA by Ultradeep Sequencing in Patients with Stage I to III Colorectal Cancer*, 5
3 JAMA ONCOLOGY 1124 (2019).

4 30. Attached hereto as Exhibit 28 is a true and correct copy of excerpts of the September
5 13, 2022 Rebuttal Expert Report of Michael L. Metzker, Ph.D.

6 31. Attached hereto as Exhibit 29 is a true and correct copy of a document produced in this
7 case as GHI00013010.

8 32. Attached hereto as Exhibit 30 is a true and correct copy of a document produced in this
9 case as GHI00006666.

10 33. Attached hereto as Exhibit 31 is a true and correct copy of a document produced in this
11 case as GHI00006536.

12 34. Attached hereto as Exhibit 32 is a true and correct copy of a document produced in this
13 case as NATERA_006900.

14 35. Attached hereto as Exhibit 33 is a true and correct copy of excerpts of the August 22,
15 2022 Opening Expert Report of Daniel F. Heitjan, Ph.D.

16 36. Attached hereto as Exhibit 34 is a true and correct copy of excerpts of the September
17 13, 2022 Rebuttal Expert Report of Daniel F. Heitjan, Ph.D.

18 37. Attached hereto as Exhibit 35 is a true and correct copy of excerpts of the transcript
19 from the July 27, 2022 deposition of Shruti Sharma.

20 I declare under penalty of perjury under the laws of the United States of America that the
21 foregoing is true and correct.

22 //

23 //

24 //

Executed on May 26, 2023 at San Mateo, California.

/s/ Elle X. Wang

Elle X. Wang